

EXHIBIT A

FILED
1/29/2024 11:13 AM
Avrey Anderson
District Clerk
Hays County, Texas

No. 24-0225

GREG SCHWARZ AND
LEIF SCHWARZ,
Plaintiffs

v.

UNITED BEHAVIORAL HEALTH
and THE CITY OF SAN MARCOS,
Defendants

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IN THE DISTRICT COURT OF

HAYS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE COURT:

Greg Schwarz and Leif Schwarz, Plaintiffs, respectfully file this original petition complaining of United Behavioral Health and The City of San Marcos, and would show:

I. Discovery Control Plan, Level 2

Pursuant to Texas Rule of Civil Procedure 190.3, this case is governed by Discovery Control Plan, Level 2.

II. Nature of the Case

Plaintiffs' claim arises from defendants failure to provide health insurance coverage as agreed and as paid for by Plaintiffs. Pursuant to Texas Rule of Civil Procedure 47, Plaintiffs state that they seek damages within the jurisdictional limits of this court, specifically less than \$250,000.00 of monetary relief.

III. Parties

Plaintiffs are individuals residing in Hays County, Texas.

Defendant, United Behavioral Health, is a foreign third party administrator and may be served with citation by and the Texas Commissioner of Insurance, 1601 Congress Avenue, Austin, Texas 78701-1407.

Defendant, the City of San Marcos, is an incorporated city in Hays County, Texas and may be served by serving its mayor, clerk, secretary of treasurer at the City of San Marcos's offices at 630 E. Hopkins St., San Marcos, Texas 78666.

IV. Venue

Venue is proper in Hays County because all or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in Travis County. Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a)(1).

V. Conditions Precedent

All conditions precedent to recovery have been met or have occurred.

VI. Facts of the Case

The City of San Marcos sponsored an employee benefit plan that included health insurance for its employees, including Plaintiff Greg Schwarz. United Behavioral Health was the third party

administrator for that plan. Greg Schwarz and his son, Leif Schwarz were covered by that plan at all times relevant to this lawsuit.

Leif received medically necessary treatment at the Elements Wilderness Program in Utah from November 17, 2021 to February 12, 2022. Elements is a 24/7 outdoor behavioral health treatment facility that is licensed by the state of Utah to provide intermediate behavioral health services to children and adolescents. Elements is nationally accredited and provides behavioral health services on an inpatient basis. Leif received therapeutic mental health services during his time at Elements. The treatment was successful and since that time Leif has been in a much better mental state.

Plaintiffs presented the claims from Elements to UHC but all were denied. Greg Schwarz attempted to obtain pre-authorization from United Behavioral Health for Elements and was denied. When he submitted the claims for the charges from Elements, United Health Care's explanations of benefits merely stated, "Your plan does not cover this therapy service or associated expense" with no additional explanation provided. Likewise, United Healthcare's denials of March 21, 2023 and June 5, 2023 simply parroted the statement that the services were not covered without any explanation of an exclusion or any other policy language to support the denial.

VII. First Cause of Action: Breach of Contract

Defendants' improper denial of Plaintiffs' claims amount to a breach of contract. Plaintiffs applied for and were accepted for health insurance coverage by Defendants. Plaintiffs paid the required premiums, entering into a binding contract for insurance with Defendants. Defendants breached the contract by denying and refusing to pay the above-referenced claims. Plaintiffs are

entitled to recover their actual damages, court costs and reasonable and necessary attorney's fees pursuant to Texas Civil Practice & Remedies Code, Section 38.001, et seq.

VIII. Second Cause of Action: Texas Insurance Code

Defendants' actions as described above to Unfair Settlement Practices as defined by Texas Insurance Code, Section 541.060. Specifically, Defendants misrepresented facts and policy provisions, failed to attempt in good faith to settle claims on which liability has become clear, failed within a reasonable time to affirm or deny coverage of a claim, and refused to pay a claim without conducting a reasonable investigation with respect to the claim. Defendants' violations have been a producing case of damages to Plaintiffs. Because Defendants have acted knowingly, Plaintiffs are entitled to an additional award of three times their actual damages. Texas Insurance Code, Section 541.152(b). They are also entitled to their reasonable and necessary attorney's fees.

IX. Third Cause of Action: Texas Insurance Code Sections 541.051-061

Defendants' actions also amount to a violation of Texas Insurance Code, Sections 542.051-061. As such, Plaintiffs are entitled to 18% per annum in addition to the amount of their claims, plus attorney's fees.

X. Prayer

Plaintiffs pray that upon final trial of this case they have judgment against Defendants for actual damages, additional damages, the 18% penalty pursuant to the Texas Insurance Code,

reasonable and necessary attorney's fees, pre-judgment and post-judgment interest, and such other relief to which Plaintiffs may show themselves entitled.

Respectfully submitted,

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